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## **OLR Bill Analysis**

### **sSB 1215**

#### ***AN ACT CONCERNING CERTAIN CIGARETTE TAX VIOLATIONS AND OTHER CHANGES.***

#### **SUMMARY:**

This bill:

1. reduces penalties for certain cigarette dealers who (a) continue to sell cigarettes or taxed tobacco products after their licenses expire or (b) possess cigarettes that do not have required Connecticut tax stamps;
2. imposes a fine of up to \$1,000 on anyone who (a) uses dyed diesel fuel in a commercial vehicle on a public highway or (b) refuses to allow authorized state officials to inspect such a vehicle's fuel tank for dyed diesel fuel on request;
3. limits the penalties imposed on taxpayers who, for the first or second time, fail to make tax payments electronically when required to do so; and
4. requires a nonresident charged with an infraction for operating a motor carrier on state highways without proper identification markers to either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay by mail or plead not guilty through the Centralized Infractions Bureau, as appropriate.

EFFECTIVE DATE: July 1, 2011, except for the electronic payment penalty limits, which are effective on passage and applicable to tax periods starting on or after January 1, 2012.

#### **§ 1 – SALE OF CIGARETTES OR TAXED TOBACCO PRODUCTS WITH AN EXPIRED LICENSE**

It is illegal to sell, offer to sell, or possess with intent to sell cigarettes or taxed tobacco products without a license from the Department of Revenue Services (DRS). Under current law, the penalty for each knowing violation is a fine of up to \$500, up to three months in jail, or both, with each day of unauthorized operation counted as a separate offense. In the case of a cigarette dealer who operates for no more than 90 days after his or her license expires, the bill reduces the penalty to an infraction, with a \$90 fine.

Taxed tobacco products include snuff, cigars, cheroots, pipe tobacco, and similar products.

## **§ 2 – SALE OR POSSESSION OF UNSTAMPED CIGARETTES**

It is illegal to sell, offer to sell, display for sale, or possess cigarettes without the required Connecticut tax stamp, except that a licensed cigarette dealer may possess unstamped cigarettes, other than those that may not legally be stamped, at a licensed location for no more than 24 hours. Under current law, the penalty for any knowing violation is a fine of up to \$1,000, up to one year in jail, or both. Under the bill, if it is the dealer's first violation and he or she possesses no more than 600 unstamped cigarettes, the penalty is reduced to an infraction, with a \$90 fine.

## **§ 3 – ILLEGAL USE OF DYED DIESEL FUEL**

Federal law exempts diesel fuel used for certain non-highway purposes from federal fuel taxes and requires exempt diesel fuel to be dyed red so it can be identified.

This bill imposes a fine of up to \$1,000 on anyone who uses dyed diesel fuel in a motor vehicle, other than a passenger or combined passenger-commercial vehicle, on a public highway. The penalty does not apply to those who use dyed diesel fuel under federal law or regulation. It imposes the same penalty on anyone who refuses to allow an authorized DRS or other state official to inspect such a vehicle's fuel tank upon request.

The bill requires violators who live in Connecticut to pay the fine by

mail, or plead not guilty through the Centralized Infractions Bureau. If the violator is a nonresident, he or she must either post a bond equal to the fine or, if the violator lives in a state that has reciprocity with Connecticut for suspending an operator's license for nonpayment of a fine, pay or plead not guilty through the Centralized Infractions Bureau.

#### **§ 4 – PENALTY FOR FAILING TO PAY TAXES ELECTRONICALLY**

The law allows the DRS commissioner to require taxpayers and employers to pay taxes by electronic funds transfer if they have (1) \$4,000 or more in annual tax liability or (2) more than \$2,000 in annual withholding tax payments. The law also penalizes any such payment not made electronically as if it were paid late.

Under current law, the penalty for failing to pay electronically when required to do so is 10% of the required electronic payment. This bill maintains the 10% penalty for a third or subsequent failure, but establishes maximum penalties of \$100 for the first and \$10,000 for the second such failure.

#### **BACKGROUND**

##### ***Infractions***

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus a \$20 or \$35 surcharge and an additional fee based on the amount of the fine. There may be other added charges depending upon the type of infraction. With the various additional charges, the total amount due can be over \$300 but often is less than \$100. An infraction is not a crime and violators can pay the fine by mail without making a court appearance.

#### **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea    52        Nay    0        (04/07/2011)